

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Industrial Chemical & Equipment Company)	
	Personal Property Account No. 086077)	Davidson County
	Tax year 2007)	

INITIAL DECISION AND ORDER

Statement of the Case

The Davidson County Assessor of Property ("Assessor") has valued the subject property for tax purposes as follows:

Appraisal	Assessment
\$89,700	\$26,910

On July 20, 2007, the State Board of Equalization ("State Board") received an appeal by the taxpayer. As indicated on the appeal form, the property in question was not appealed to the Metropolitan Board of Equalization ("county board") during its regular 2007 session.

The undersigned administrative judge conducted a hearing of this matter on September 18, 2007 in Nashville. In attendance at the hearing were the appellant Catherine T. Blackburn (d/b/a Industrial Chemical Equipment) and Assessor's representative Kenneth Vinson.

Findings of Fact and Conclusions of Law

Ms. Blackburn operates a small business in a rented building at 311 Space Park North in Goodlettsville. In 2007, as in the past several tax years, the company failed to file the tangible personal property schedule required by Tenn. Code Ann. section 67-5-903 with the Assessor's office by the March 1 deadline. Consequently, the Assessor made a "forced assessment" on the account in the amount shown above. As shown on the assessment change notice dated May 18, 2007, this amount greatly exceeded the previous (2006) valuation of the subject property.

On June 14, 2007 – the day before the deadline specified on the notice for appealing the forced assessment to the county board – Ms. Blackburn telephoned the Assessor's office in an attempt to obtain relief. According to her recollection, she was told by the (unidentified) man with whom she spoke that it was too late to schedule an appointment for a hearing before the county board, and that she would have to appeal to the State Board. Such a response, Mr. Vinson declared, would have been contrary to the Assessor's policy of accepting appeals until the last day indicated on the assessment change notice.

Like other property assessments, a forced assessment of tangible personal property may be appealed to the local and state boards of equalization. Tenn. Code Ann. section 67-5-903(d). Generally, an aggrieved taxpayer must first make complaint to the local board of equalization before appealing an assessment to the State Board. Tenn. Code Ann. section 67-

5-1412(b). However, as amended by Chapter No. 133 of the Public Acts of 2007, Tenn. Code Ann. section 67-5-1412(e) provides (in relevant part) that:

The taxpayer has the right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the time for appeal to the state board began to run.

The Assessment Appeals Commission, appointed by the State Board pursuant to Tenn. Code Ann. section 67-5-1502, has historically construed the term *reasonable cause* in the quoted statute to mean "illness or other circumstance beyond the taxpayer's control." Associated Pipeline Contractors, Inc. (Williamson County, Tax Year 1992, Final Decision and Order, August 11, 1994), p. 3. But as proclaimed in Memphis Mall Holdings, LLC (Shelby County, Tax Year 2003, Final Decision and Order, December 22, 2004), the agency "has shown great sensitivity in situations where a taxpayer has been misled, whether intentionally or otherwise, by government officials." *Id.* at p. 3. In recognition of this principle, the administrative judge respectfully recommends acceptance of this appeal. To be sure, the appellant's testimony would have been more compelling if: (a) she had been able to identify the employee of the Assessor's office who purportedly advised her to appeal directly to the State Board; and (b) that individual had corroborated her testimony. Even without such confirmation, however, the administrative judge is not inclined to doubt Ms. Blackburn's credibility.

Under Tenn. Code Ann. section 67-5-903(d), relief from a forced assessment is expressly "conditioned upon the taxpayer filing with the board of equalization a complete listing or schedule of all the tangible personal property owned or used by the taxpayer in the operation of the taxpayer's business on the same form as required to be filed with the assessor."

Order

It is therefore ORDERED that, within ten (10) days after the date of entry hereof, the taxpayer shall file the completed schedule required by Tenn. Code Ann. section 67-5-903(d) with the administrative judge and send a copy to the Assessor's office. Within five (5) days after receipt of such schedule, the Assessor shall inform the administrative judge in writing whether or not she accepts the value claimed thereon. If the Assessor does accept such value, the subject property shall be appraised and assessed accordingly for tax year 2007. If the Assessor does not accept such value, this matter will be reset for hearing on the merits upon proper notice.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

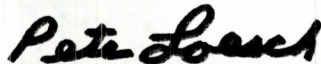
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of

the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12th day of October, 2007.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Catherine T. Blackburn, Industrial Chemical & Equipment Company
Kenneth Vinson, Davidson County Assessor's Office
Jo Ann North, Davidson County Assessor of Property

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